

BEFORE THE TENNESSEE REGULATORY AUTHORITY AT

NASHVILLE, TENNESSEE

April 17, 2002

IN RE:

APPLICATION FOR APPROVAL OF THE TRANSFER OF  
CONTROL OF NEW CENTURY TELECOM, INC. AND  
REQUEST FOR WAIVER OF CUSTOMER  
NOTIFICATION REQUIREMENTS

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DOCKET NO.  
02-00170

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ORDER APPROVING TRANSFER OF AUTHORITY

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This matter came before the Tennessee Regulatory Authority (the "Authority") at the regularly scheduled Authority Conference held on March 26, 2002 for consideration of the *Application* (the "*Application*") filed by New Century Telecom, Inc. ("NCT") for approval of a transfer of authority to provide utility services. The *Application* was considered pursuant to the provisions of Tenn. Code Ann. § 65-4-113.

**Requirement of and Standards for Authority Approval**

Tenn. Code Ann. § 65-4-113 requires a public utility to obtain Authority approval to transfer its authority to provide utility services. Tenn. Code Ann. § 65-4-113(a) provides as follows:

(a) No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

Tenn. Code Ann. § 65-4-113(b) provides the standards by which the Authority shall consider an application for transfer of authority, in pertinent part, as follows:

(b) Upon petition for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. . . .

### **The Application**

According to the *Application*, which was filed on February 20, 2002, NCT is a Virginia corporation that holds a Certificate of Authority to provide resold long distance telecommunications services in Tennessee granted in Docket No. 97-07577 by Order dated December 8, 1997. In the *Application*, NCT requests that the Authority approve, pursuant to Tenn. Code Ann. § 65-4-113, an indirect transfer of control of NCT to Alba Cipriani, a private investor. The Application states that Alba Cipriani will gain one hundred percent (100%) ownership of NCT through the acquisition of all outstanding shares. The Application states that the indirect transfer will not involve a change in the name under which NCT currently offers service in Tennessee, nor will it change any of the services NCT offers in Tennessee. In a supplement to the *Application*, filed on March 14, 2002, NCT states that its technical, financial, and managerial staff will not materially change upon the transfer of ownership.<sup>1</sup>

### **Public Interest Considerations**

According to the *Application*, there will be no change to the rates or terms and conditions of service. NCT will continue to be led by the same team of experienced telecommunications officers and personnel. The indirect transfer of control of NCT will be seamless and completely transparent to Tennessee customers.

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<sup>1</sup> In its *Application*, NCT also requests that the Authority waive any customer authorization, verification, and notification requirements, on the grounds that the preferred interexchange carrier of its pre-subscribed customers will not change as a result of the transfer of ownership and all billing of customers will continue as before the transfer. Because no change in NCT's customers' preferred intraLATA carrier, preferred interLATA carrier, or primary local exchange service provider will take place as a result of the transfer of ownership, the Authority's rule regarding such changes, Authority Rule 1220-4-2-.56, is hereby waived in this instance.

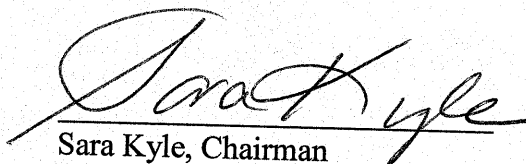
### **Findings**


The Directors of the Authority considered this matter at the March 26, 2002 Authority Conference. Based upon careful consideration of the *Application*, the Authority finds and concludes as follows:

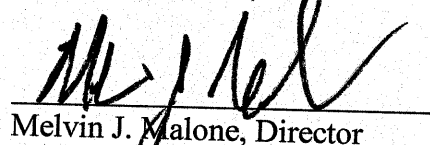
1. The Authority has jurisdiction over the subject matter of this *Application* pursuant to Tenn. Code Ann. § 65-4-113;
2. New Century Telecom, Inc. has been granted authority to provide telecommunications services in Tennessee;
3. One hundred percent (100%) ownership of the outstanding stock of New Century Telecom, Inc. will be acquired by Alba Cipriani, resulting in a transfer of the authority granted New Century Telecom, Inc. to provide utility services; and
4. Approval of the transfer of authority is appropriate pursuant to the provisions of Tenn. Code Ann. § 65-4-113.

### **IT IS THEREFORE ORDERED THAT:**

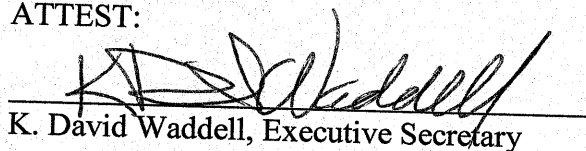
The *Application* of New Century Telecom, Inc. for approval of the transfer of authority described herein is approved.

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary